



**Rule and Interpretive/Policy Statement Review Checklist**  
(This form must be filled out electronically.)

This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Document(s) Reviewed (include title):

**WAC 458-16-320 - Emergency or transitional housing**

Date last adopted/issued: **7/5/99**

Reviewer: **Kim M. Qually**

Date review completed: **11/26/02**

Briefly explain the subject matter of the document(s):

**WAC 458-16-320 explains the exemption authorized by RCW 84.36.043 for property used by a nonprofit organization to provide emergency or transitional housing to homeless persons or victims of domestic violence. It outlines the requirements that must be satisfied to obtain and retain an exemption.**

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

**2. Need:**

YES	NO	
<b>X</b>		Is the document necessary to comply with the statutes that authorize it?
	<b>X</b>	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	<b>X</b>	Have the laws changed so that the document should be revised or repealed?
<b>X</b>		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens?

Please explain.

**RCW 84.36.043 provides an exemption for real and personal property used by a nonprofit organization to provide emergency or transitional housing for low-income homeless persons or victims of domestic violence. Previously the exemption for leased property was set to expire as of 1/1/99. During the 1998 session, the Legislature eliminated the expiration date relative to leased property**



(chapter 174, Laws of 1998). In 1999, the rule was revised to reflect this statutory change.

**3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:**

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule?
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed?
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

**The BTA has heard one case regarding emergency or transitional housing in recent years. However, this decision does not contain any information or guidance not set forth in the current rule.**

**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate?
X		Is the document providing the result(s) that it was originally designed to achieve?
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.



The current rule was adopted in 1999 to incorporate the 1998 statutory changes. It is clear and concise as written. It provides the information necessary to administer the exemption authorized by RCW 84.36.043 for property used to provide emergency or transitional housing to low income homeless persons or victims of domestic violence.

**5. Intent and Statutory Authority:**

YES	NO	
X		Does the Department have sufficient authority <b>to adopt</b> this document?
X		Is the document consistent with the legislative intent of the statute(s) that authorize it?
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

**RCW 84.36.043 is the underlying statute. The rule is consistent with the intent of this statute and reflects its current text.**

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

**Property taxes are levied at the local level only. Local government and other state agencies, as appropriate, are consulted during the rule making process so the chance of adopting duplicative and/or inconsistent regulations is minimal.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs?

Please explain.

**This is an interpretive rule that imposes no new or additional administrative burdens on businesses that are not imposed by law.**



**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

**This rule applies equally to all nonprofit organizations that provide emergency or transitional housing to low income homeless persons or victims of domestic violence. WAC 458-16-320 is written in a clear and concise manner to inform and aid this type of taxpayer about the property tax exemption authorized by RCW 84.36.043. DOR has not been approached about any difficulties or negative impacts of the rule since it was revised in 1999.**

#### **9. LISTING OF DOCUMENTS REVIEWED:**

Statute(s) Implemented:

**RCW 84.36.043 - Nonprofit organization property used in providing emergency or transitional housing to low income homeless persons or victims of domestic violence**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **none**

Court Decisions: **none**

Board of Tax Appeals Decisions (BTAs):

**St. Peter Evangelical Lutheran Church - Spokane v. DOR, BTA Docket No. 50886 (1998) - whether a modest house used by the Church as affordable housing for needy persons qualifies for an exemption under RCW 84.36.043. The Church makes the subject property available to needy people at below-market rent. The residents occupy the property for no more than six months to a year. No lease is signed. The Church's use of the subject property does not meet statutory requirements for exempt use as housing for the homeless because occupants stay longer than one or two nights. The property does not meet requirements for emergency housing because occupants stay longer than 60 days and the Church does not provide "supportive services". Finally, the subject property does not meet the requirements for transitional housing because no supportive services facilitating transition to "independent living" are provided by the Church.**

Appeal Division Decisions (WTDs): **none**

Attorney General Opinions (AGOs): **none**



Other Documents:        **none**

**10. Review Recommendation:**

- \_\_\_\_\_ **Amend**
- \_\_\_\_\_ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- X**   **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- \_\_\_\_\_ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

**The current version of the rule was adopted in the July 1999. It contains current information and directions about how to obtain and retain the property tax exemption authorized by RCW 84.36.043.**

**11. Manager action:**    Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed and accepted recommendation

Amendment priority:

- \_\_\_\_\_ 1  
\_\_\_\_\_ 2  
\_\_\_\_\_ 3  
\_\_\_\_\_ 4